



Conditional Use

A conditional use is a use, which may be permitted in a specific zoning district if approved by the Hearing Examiner, based on compliance with certain criteria.

Only those uses listed in the Zoning Regulations as a conditional use may be considered. The regulations specify the zoning districts in which each conditional use may be permitted.

Applications

Conditional use application forms may be obtained from the Department of Planning and Zoning and from the Internet. Applications must be completely and accurately filled out. They must also include a conditional use plan containing those items listed on the application checklist. Department personnel are available to assist in explaining the conditional use process and ensuring that petitions are properly filed.

The County Council establishes filing fees. The current fees are listed on the application form.

Criteria

The Zoning Regulations contain two general standards that all conditional use requests must conform to in order to be approved. The two general standards are:

1. The proposed conditional use plan will be in harmony with the land uses and policies indicated in the Howard County General Plan for the district in which it is located. In evaluating the plan under this standard, the Board shall consider:
 - a. The nature and intensity of the use, the size of the site in relation to the use, and the location of the site with respect to streets giving access to the site; and
 - b. If a conditional use is combined with other conditional uses or permitted uses on a site, the overall intensity and scale of uses on the site is appropriate given the adequacy of proposed buffers and setbacks.
2. The proposed use at the proposed location will not have adverse effects on vicinal properties above and beyond those ordinarily associated with such uses. In evaluating the plan under this standard, the Board of Appeals shall consider whether:

- a. The impact of adverse effects such as noise, dust, fumes, odors, lighting, vibrations, hazards or other physical conditions will be greater at the subject site than it would generally elsewhere in the zone or applicable other zones.
- b. The location, nature and height of structures, walls and fences, and the nature and extent of the landscaping on the site are such that the use will not hinder or discourage the development and use of adjacent land and structures more at the subject site than it would generally in the zone or applicable other zones.
- c. Parking areas will be of adequate size for the particular use. Parking areas, loading areas, driveways and refuse areas will be properly located and screened from public roads and residential uses to minimize adverse impacts on adjacent properties.
- d. The ingress and egress drives will provide safe access with adequate sight distance, based on actual conditions, and with adequate acceleration and deceleration lanes where appropriate

The Zoning Regulations also contain specific criteria for each individual conditional use category. These various requirements are given in Sections 131.B, 131.C and 131.N of the Zoning Regulations.

Conditional Use Petition Process

1. Presubmission Community Meeting

A pre-submission community meeting must be held prior to submittal of a petition for a conditional use. The petitioner must provide at least 3 weeks written notice regarding the date, time and location of the meeting by mail to adjoining property owners and to DPZ to put the meeting notice on the Department's web site.

2. Submission

An applicant who is ready to submit a conditional use petition should call the Department of Planning and Zoning for an appointment. At the submission appointment, a staff member briefly checks the petition for completeness. Once submitted, staff reviews the petition in more detail to check for errors or discrepancies and to determine whether it includes adequate information for an evaluation of all criteria. If the staff notes any such items in this pre-acceptance review, the applicant is notified in writing and given the opportunity to correct or supplement the information provided in the petition. Once the applicant responds with the corrections or additional material, or if the staff did not find a need for these, the petition is accepted for scheduling.

3. Scheduling

After a petition has been accepted, a hearing is scheduled. The date scheduled is based upon the requirements for public notice and the number of cases currently on the docket.

4. Posting

The property must be posted at least 30 days immediately prior to the hearing. The Department of Planning and Zoning supplies the posters, but the petitioner will be responsible for erecting and maintaining them. Prior to the hearing the petitioner must sign an affidavit attesting that the property has been posted in accordance with the applicable requirements.

5. Advertising

The petitioner, at his/her own expense, must advertise the date, time and place of the hearing at least 30 days prior to the hearing, in at least two newspapers of general circulation in Howard County. The Department of Planning and Zoning provides the text for the advertising.

6. Technical Staff Report

The Department of Planning and Zoning issues a Technical Staff Report, which evaluates the petition and recommends approval or denial. Included in this report are comments from other agencies, which may have an interest in the case. The report is typically issued on a Friday at least 11 days prior to the hearing, but copies may not be available on that date due to staffing and time constraints. Please call the Department to check on the availability of copies

7. Hearings

The Hearing Examiner hears all petitions at a public hearing . The date and time of the hearing is advertised to the public by means of the local newspapers and a sign that is placed on the property. The petitioner must attend the public hearing and be prepared to present his or her petition and answer any questions. Petitioners may choose to represent themselves or engage an attorney or other competent professional to present the case. Other people who are interested in the petition may attend the hearing and present testimony as permitted in the Hearing Examiner's Rules of Procedure.

8. Decision

The Hearing Examiner makes the final decision on a conditional use petition. While the Hearing Examiner gives due consideration to the recommendation in the Technical Staff Report, it is not bound by this recommendation. The Hearing Examiner issues the decision in the form of a written Decision and Order containing Findings of Fact, Conclusions of Law, the Decision, and any conditions the Hearing Examiner finds appropriate.

9. Reconsideration

Within 15 days of the issuance of a Decision and Order any party may request that the Hearing Examiner suspend and reconsider the Decision. The Hearing Examiner may reconsider the Decision only under limited circumstances such as cases of fraud, mistake or irregularity, to correct a clerical error, or for other good cause shown. The Hearing Examiner shall not rehear a matter unless new evidence is submitted which could not reasonably have been presented at the original hearing.

10. Appeals

A decision rendered by the Hearing Examiner may be appealed to the Board of Appeals of Howard County within 30 days after the Decision and Order is issued. Information concerning this appeal process should be obtained from private counsel or the Clerk of the Board of Appeals.

Additional Requirements

A site development plan is required for all conditional uses in commercial or industrial districts. In other districts, a site development plan may be required if site improvements are planned or if the use qualifies as development as defined by the Subdivision and Land Development Regulations. The site plan must be in substantial compliance with the approved conditional use plan and must meet the requirements of the Subdivision and Land Development Regulations. Information concerning these regulations may be obtained by contacting the Department of Planning and Zoning.

An approved conditional use becomes void unless a building permit conforming to the conditional use plan is obtained within two years, and substantial construction is completed within three years from the date of the decision. Any conditional use for which a building permit is not necessary must commence operations within two years. Up to two extensions may be granted based on a process described in the Zoning Regulations. If a conditional use is discontinued for a continuous period of at least two years the conditional use approval becomes void.

An important note...

This information is not to be considered legal advice. Additional information concerning the conditional use process is contained in Section 131 of the Zoning Regulations and the Rules of Procedure of the respective Boards. These documents are available through the Department of Planning and Zoning and on the County website (www.howardcountymd.gov).

For more information contact:

The Howard County Department of Planning and Zoning
(410) 313-2350, TTY 410-313-2323 or www.howardcountymd.gov or visit
Planning & Zoning's Customer Service Center on the first floor of the George
Howard Building, 3430 Courthouse Drive, Ellicott City, Maryland, 212043.

Office Hours are:

Monday through Friday
8:00 a.m. to 5:00 p.m.

Written inquiries may also be sent to our office at the above address.

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